

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BOARD OF TRUSTEES, in their
capacities as Trustees of the LABORERS
HEALTH AND WELFARE TRUST FUND
FOR NORTHERN CALIFORNIA,
LABORERS VACATION-HOLIDAY TRUST
FUND FOR NORTHERN CALIFORNIA,
LABORERS PENSION TRUST FUND FOR
NORTHERN CALIFORNIA, AND
LABORERS TRAINING AND RETRAINING
TRUST FUND FOR NORTHERN
CALIFORNIA,

Plaintiffs,

v.

TRETHEWAY, INC., a California Corporation,

Defendant.

No. C-10-03223-SBA (DMR)

**ORDER REQUESTING
SUPPLEMENTAL INFORMATION AND
SCHEDULING HEARING DATE ON
MOTION FOR DEFAULT JUDGMENT**

Notice is hereby given that the hearing on Plaintiff's Motion for Default Judgment is set on
June 30, 2011 at 11:00 a.m in Courtroom 4, 3rd Floor, U.S. District Court, 1301 Clay Street,
Oakland, California 94612. Further, having reviewed Plaintiff's Motion for Default Judgment
[Docket No. 24], the court hereby orders Plaintiff to submit the following supplemental evidence
and information in support of its motion, **by no later than June 29, 2011:**

(1) Explanation of inconsistencies observed between the unpaid contributions and the interest due therefrom. Exhibit E was submitted with the Declaration of John Hagan [Docket No. 25] as a true and correct copy of the Statement of Contributions due to the Trust Funds for these months. Exhibit F was submitted with the Declaration of John Hagan as a true and correct copy of the Statement of Interest and Liquidated Damages due on the reported unpaid contributions for these months. Inconsistencies between Exhibit E and Exhibit F include:

a) Interest amounts appear to have been applied for periods that do not indicate any contribution is due. (*See, e.g.*, Vacation-Holiday Trust Fund for July 2008. Exhibit E shows no contribution due. Exhibit F shows interest due for this period amounting to \$289.89.)

b) Interest amounts seem to have accrued at a rate that exceeds other amounts of the same period. (*See, e.g.*, Health & Welfare Trust Fund in July 2008. Exhibit F shows that, as a portion of the unpaid contribution from Exhibit E, the interest amount accrued at a rate that far outstrips interest amounts for the other funds in July 2008.)

c) Interest amounts are identified in October 2010, a period that was not identified as delinquent in either the John Hagan Declaration or the Motion for Default Judgment. Exhibit E does not show any contribution due for October 2010.

(2) Further information on the method used to calculate all interest amounts in Exhibit F. The John Hagan Declaration and Master Agreement (Decl. Ex. C) indicate that these rates should accrue at a rate of 1.5% per month. Accordingly, the court requests submission of the formulas used for each of the figures in Exhibit F. The court has observed irregularities with the methodology used in Exhibit F, and has thus far been unable to verify the accuracy of the numbers. (*See, e.g.*, Pension Trust Fund interest amount of \$31.60 on an amount unpaid of \$47.04 in August 2009. As calculated through March 25, 2011, this interest amount reflects an interest rate in excess of 3% a month.)

(3) In light of inconsistencies observed with Exhibit F, a full accounting for the figures provided for in Exhibit G. For each amount this now should include the date at which a contribution became due, the amount that was due, and the date when the amount was paid.

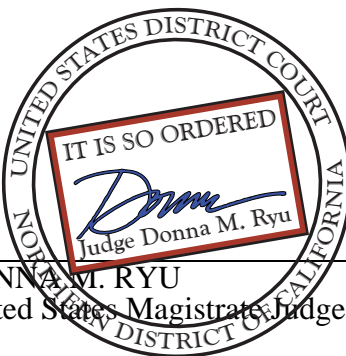
1 Note that examples are provided only for illustrative purposes and Plaintiff's supplemental
2 materials should not be confined to answering questions based on the individual examples.

3 **Immediately upon receipt of this Order, Plaintiff shall serve a copy of this Order on**
4 **Defendants and shall e-file a proof of service on the same day that service is effected. At the**
5 **same time Plaintiff's supplemental information as ordered herein is submitted to the court,**
6 **Plaintiff shall service Defendants with a copy of the supplemental information and file a proof**
7 **of service with the court.** Service by Plaintiff may be made by mail.

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9 IT IS SO ORDERED.

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11 Dated: June 16, 2011

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DONNA M. RYU
United States Magistrate Judge

